

1 then it should come in through Mr. Castro's statement.

2 JUDGE LUTON: Take a look. I believe it is  
3 covered. For example, Mr. castro, speaking on behalf of  
4 Vision Latina says, "We needed to form a corporation.  
5 Vision Latina was incorporated on March 8, 1996. The law  
6 firm was retained March 13 and by the end of that month,  
7 agreement with the asset holders had been reached."

8 Yes, sir?

9 MR. ZAUNER: All right.

10 JUDGE LUTON: So if Mr. Peterson's statement  
11 smells of hearsay, does it really matter if Mr. Castro's  
12 statement is going to come in here anyhow? He presumably or  
13 appears to be speaking from personal knowledge.

14 MR. ZAUNER: Your Honor, the Bureau -- well, I  
15 think perhaps I'm doing it this way and perhaps I'm doing it  
16 backwards is that the Bureau is going to object to much of  
17 Mr. Castro's statement as being irrelevant.

18 JUDGE LUTON: Okay.

19 MR. ZAUNER: And I guess at this point, perhaps  
20 the same objection would apply to the statements that we are  
21 dealing with now. That Vision Latina has no standing in  
22 this proceeding whatsoever and what Vision Latina may do or  
23 may not do, if it happens to be fortunate enough to obtain  
24 the license in this case is irrelevant to this proceeding  
25 because it is speculative in nature and it is -- the only

1 reason that Vision Latina's statements might come in would  
2 be to the extent that it would go to the state of mind of  
3 this licensee in regard to his failure to file an STA in a  
4 timely manner.

5 JUDGE LUTON: Well, I agree with you. I'm really  
6 not interested in Vision Latina's plans, hopes, dreams,  
7 fears about any of this stuff; but what I am interested in  
8 is testimony from a witness who might know. And I look at  
9 Mr. Castro as a witness offering testimony, not as Vision  
10 Latina. He is a witness offering testimony certainly with  
11 respect to those three points that you initially raised. I  
12 haven't gone beyond that. I'm still trying to deal with the  
13 evidentiary objections here. That's all.

14 MR. ZAUNER: Okay.

15 JUDGE LUTON: And it seems to me -- well, I don't  
16 know -- does the Bureau have some evidentiary objection to  
17 Mr. Castro's testimony on those three points? I don't know  
18 what they might be, but you are certainly welcome to state  
19 them if you have them. Because if that testimony stands, I  
20 think that it really just diminishes, just makes unimportant  
21 Mr. Peterson's indulgence in hearsay if, indeed, it is  
22 hearsay on those points.

23 If there is non-hearsay testimony to the same  
24 effect, otherwise unobjectionable testimony, there is no  
25 reason for me to strike what Mr. Peterson says. I can

1 ignore it and probably would in writing a decision, but the  
2 record would reflect testimony of a presumably knowledgeable  
3 witness, non-hearsay testimony on the same matters.

4 MR. ZAUNER: The only objection that I would have  
5 would be on the grounds of relevancy, that it is irrelevant  
6 when Vision Latina had incorporated.

7 JUDGE LUTON: Okay. Now, that's a different  
8 objection.

9 MR. ZAUNER: That's right. That was going to be  
10 the objection to the testimony of Eloy Castro.

11 JUDGE LUTON: All right. Mr. Peterson, we've got  
12 another objection here. I think we're going to move away  
13 from that first set of objections claiming hearsay. The  
14 Bureau is now saying that the paragraph that we've been  
15 talking about on page 3 of Exhibit 1 contains irrelevant  
16 matter.

17 Now, what are those irrelevancies as you view  
18 them, Mr. Zauner?

19 MR. ZAUNER: The fact that by the end of March  
20 1996, when Vision Latina had incorporated, is irrelevant to  
21 this proceeding.

22 JUDGE LUTON: Okay.

23 MR. ZAUNER: And the fact they had negotiated and  
24 reached agreements with asset holders is irrelevant and  
25 whether they had retained communications counsel to prepare

1 the final license assignment agreement and assignment  
2 applications is also irrelevant.

3 JUDGE LUTON: Okay. Mr. Peterson, would you like  
4 to respond to that?

5 MR. PETERSON: Yes, sir, I would.

6 All three of his objections I feel are not valid  
7 because that paragraph is exactly the instructions that  
8 Michael Wagner gave me and I was going on his instructions  
9 from January the 30th that in order to pursue an STA or to  
10 pursue a license transfer and not revocation of the license  
11 that if I had another party who was interested in pursuing  
12 the station license, then they would have to show agreements  
13 with the asset holders that they were going to purchase  
14 them. They would have to submit an application for  
15 assignment and it only draws the conclusion that if you're  
16 going to submit the application you have to have counsel.  
17 And that is what was represented to me and it's a reflection  
18 of my state of mind. As you said awhile ago, it's a  
19 reflection of what I was told was happening and it is a  
20 direct reflection of Michael Wagner's instructions to me on  
21 January the 30th. So, I think it is very relevant to my  
22 statement.

23 JUDGE LUTON: Motion to strike is denied. I'll  
24 let that stand. It shows some movement on the part of the  
25 license holder.

1           MR. ZAUNER: It is going to stand for -- well, all  
2 right.

3           JUDGE LUTON: The objection based on relevancy is  
4 overruled. The objection based on hearsay is also  
5 overruled. There were two bases or there were two separate  
6 objections, I believe, Mr. Zauner, as I remember it. The  
7 first one had to do with hearsay. Motion to strike.

8           MR. ZAUNER: Right.

9           JUDGE LUTON: I'm going to deny it.  
10           The second one is that the paragraph contains  
11 relevancy, for example, the time when Vision Latina had  
12 incorporated. Motion to strike is denied. Hearsay and  
13 relevancy, both denied.

14           MR. ZAUNER: Your Honor, I have no objection to  
15 the next sentence beginning with the word, "Shortly," and  
16 ending with "lapse." The rest of that paragraph I have an  
17 objection on the grounds of relevancy. The instructions  
18 that he may or may not have received from Vision Latina's  
19 attorney as to what he had to do to respond to the  
20 Commission's order, et cetera, is irrelevant to the issues  
21 in this proceeding.

22                           VOIR DIRE EXAMINATION

23           JUDGE LUTON: All right, Mr. Peterson, can you  
24 explain to us how and why you view the remainder of that  
25 paragraph as being relevant to anything that we need to

1 decide in this case?

2 MR. PETERSON: If I understand Mr. Zauner's  
3 objection correctly, he is stating that he does not feel  
4 that it is relevant when I received a copy of the Order to  
5 Show Cause from?

6 JUDGE LUTON: I think he's saying, as I understand  
7 it, Vision Latina's attorney then called you to discuss  
8 certain things. His question is, "So what?"

9 How does that constitute evidence that is useful  
10 in this case? Why is that something that we need to know  
11 about?

12 MR. PETERSON: Well, I think it shows, Your Honor,  
13 a direct -- I don't want to offend the FCC with what I say,  
14 but a direct lack of adequate communication to me. I had  
15 not received a copy at my legal address which they do have  
16 of the order to show cause. And I did not even know there  
17 was such an order existing until Mr. Cinnamon checked the  
18 file and found it. And then I was told by another local  
19 broadcaster that he had seen something in the public record  
20 which I don't receive as well.

21 JUDGE LUTON: We're not -- no part of this case so  
22 far as I'm aware has to do with any charge that you failed  
23 to respond to the Order to Show Cause.

24 Is that part of this case in your view?

25 MR. PETERSON: Me?

1 JUDGE LUTON: Yes.

2 MR. PETERSON: No, because I believe we responded  
3 to it.

4 JUDGE LUTON: All right. Then what difference  
5 does it make that you believe the FCC was timely or tardy in  
6 getting a copy of the Order to Show Cause to you. It really  
7 doesn't have anything to do with this case, does it? Isn't  
8 that irrelevant as Mr. Zauner charges?

9 MR. PETERSON: Well, in my mind, it says to me  
10 that if I had not known that there was an Order to Show  
11 Cause ever, then I would have lost the license by default.

12 JUDGE LUTON: All right, none of which is the case  
13 before me. I'm going to grant the motion and strike -- what  
14 is it you want stricken exactly, Mr. Zauner?

15 MR. ZAUNER: From the end of the word, "lapse."

16 JUDGE LUTON: All right. That's starting with the  
17 parenthetical material all the way to the end.

18 MR. ZAUNER: Correct, Your Honor.

19 JUDGE LUTON: Is that right?

20 MR. ZAUNER: Yes, Your Honor.

21 JUDGE LUTON: Mr. Peterson, I am granting the  
22 motion to strike that portion of the paragraph. It begins  
23 with in parentheses: "I had not received a copy from the  
24 FCC." And ends with "... agreements had not yet been  
25 finalized." All the way to the end, striking it as

1 irrelevant to any issue in this case.

2 Other objections, Mr. Zauner?

3 MR. ZAUNER: Yes, Your Honor. The Bureau objects  
4 to the full next paragraph as being irrelevant. As I  
5 understand this paragraph, it deals with matters that  
6 occurred post-designation between Under His Direction and  
7 Vision Latina. It talk about the filing of an assignment  
8 application and other matters that are not really relevant  
9 to the issues in this proceeding.

10 JUDGE LUTON: Please respond to that, Mr.  
11 Peterson?

12 MR. PETERSON: I think that the first sentence, "I  
13 understand that Vision Latina had to reexamine," through the  
14 end of their statement is maybe irrelevant, but the next  
15 statement, "The said agreement between UHD and Vision Latina  
16 was executed. The assignment application was filed as was a  
17 request to expedite consideration." May as well be  
18 irrelevant; but I believe that beginning with the word,  
19 "and," where it says, "I have requested reinstatement of the  
20 STA to remain silent and am considering negotiating time  
21 brokerage agreement with Vision Latina," all the way through  
22 the end of it states my intentions to retain the license and  
23 do whatever I can in view of the things that I was ordered  
24 to do. So, the first two -- going with what you said a  
25 moment ago about relevance, the first two sentences or two-



1 and-a-half sentences may be irrelevant, but I believe  
2 beginning with the word, "And I have requested," the rest of  
3 that is relevant to my intentions.

4 JUDGE LUTON: Does that change your view at all,  
5 Mr. Zauner?

6 Well, first of all, I'm going to accept what I  
7 think is Mr. Peterson's agreement that the first sentence is  
8 irrelevant and about maybe a little bit more than half of  
9 the second one is also irrelevant with a new sentence  
10 starting, "I have requested reinstatement of the STA to  
11 remain silent."

12 I'm just looking at the remainder of the  
13 paragraph. Mr. Zauner, Mr. Peterson tells us in his view it  
14 bears on his intent which is certainly --

15 MR. ZAUNER: Which is certainly an issue in this  
16 proceeding.

17 JUDGE LUTON: Indeed, it is, a central issue.

18 MR. ZAUNER: And this is the way he intends to  
19 restore the station to the air. In light of that  
20 explanation, I will withdraw the objection to that portion  
21 of the paragraph.

22 JUDGE LUTON: Okay. Mr. Peterson, I am going to  
23 agree with you that the first sentence and a little bit more  
24 than half the second one contains irrelevant matter, so I am  
25 going to strike all of that so that a new sentence -- well,

1 the paragraph will begin with the words, "I have requested  
2 reinstatement of the STA to remain silent," continuing on to  
3 the end of the paragraph. That is relevant material and  
4 that will not be stricken. All right, Mr. Peterson?

5 MR. PETERSON: Yes, sir.

6 JUDGE LUTON: That's the end of the statement  
7 except for the declaration to which I assume there is no  
8 objection.

9 Mr. Peterson, what we've been calling or what  
10 we've been thinking of anyway is your UHD's Exhibit 1 for  
11 identification is now received in evidence as UHD's Exhibit  
12 No. 1 along with all of its attachments.

13 (The document referred to  
14 having been marked for  
15 identification as KUHD's  
16 Exhibit No. 1 was received in  
17 evidence.)

18 JUDGE LUTON: Then that brings us up to the next  
19 Exhibit 2 for identification, "Direct Testimony of Eloy  
20 Castro." We have already talked about some aspects of Mr.  
21 Castro's offering here. Let's talk about whatever we need  
22 to as we examine it once again. Any objections?

23 MR. ZAUNER: Your Honor, before the Bureau voices  
24 its objection, I would like to know the purpose of the offer  
25 of this testimony by Mr. Castro. It doesn't appear to me to

1 be relevant to the issues in this proceeding which deal with  
2 the licensee's failure to return the station to the air and  
3 the licensee's intent to put the station back on the air in  
4 the future in an expeditious manner.

5 What we do have is the statement -- we now have in  
6 the record the statement of his intent, that he intends to  
7 time broker the station if such a thing is permissible using  
8 a company called Vision Latina. And given that, I don't see  
9 any necessity for the testimony of Eloy Castro, who is the  
10 president and director of Vision Latina.

11 JUDGE LUTON: Mr. Peterson, please respond.

12 MR. PETERSON: I feel that Eloy Castro's direct  
13 testimony shows proof of my intent and their intent based on  
14 the instructions we received from Mr. Wagner, January the  
15 30th. It lends every bit of credibility to the fact that  
16 they have pursued it as we were told to do and I have as  
17 well.

18 MR. ZAUNER: Your Honor, with regard to this  
19 testimony of Eloy Castro, I would point out that Mr.  
20 Castro's proposals are depending upon the Commission  
21 approving a transfer application that has been filed and the  
22 Bureau has indicated that it does not intend to approve such  
23 a transfer application.

24 MR. CINNAMON: Your Honor, if I may? We're  
25 dealing with Vision Latina and how they work and as long as

1 I'm here on their behalf, since the Bureau did not ask for  
2 Eloy Castro as a witness, I'm the only person available to  
3 speak for a second on behalf of Vision Latina, if you don't  
4 mind. It's a clarification of only one small point. The  
5 time brokerage agreement that the parties are contemplating  
6 would not require Commission approval of an assignment  
7 application.

8 MR. ZAUNER: Your Honor, if I may just address  
9 that point?

10 JUDGE LUTON: All I've got is an evidentiary  
11 objection here. What's all this business about what the  
12 Bureau will do or won't do? It unduly complicates things in  
13 my view.

14 Now, you asked Mr. Zauner for the statement of the  
15 purpose for which this was offered?

16 MR. ZAUNER: Correct, Your Honor.

17 JUDGE LUTON: And, Mr. Peterson, comes back and  
18 says, "This is what I intend to do if all these things shake  
19 out."

20 MR. ZAUNER: And my response is that this is not a  
21 statement of what Mr. Peterson intends to do, it's a direct  
22 testimony of somebody by the name of Eloy Castro.

23 JUDGE LUTON: Can you help me out here, Mr.  
24 Peterson? I want to keep this, but I'm not quite sure why.

25 MR. PETERSON: Well, I agree with what you said

1     that it shows intent. It shows my intent based on what Mr.  
2     Wagner told me. Had Mr. Wagner with the FCC on January the  
3     30th not told me some procedures to follow to retain the  
4     license, then we would not have done any of this. And I  
5     think it's a direct reflection of the whole case before us.  
6     It shows our intent to retain the license and what we expect  
7     to do in order to retain it.

8             JUDGE LUTON: This is --

9             MR. PETERSON: If I may say one other thing?

10            JUDGE LUTON: Yes, sir.

11            MR. PETERSON: If we did not have Mr. Castro's  
12     testimony, then where would we be with the procedure that we  
13     want to follow with the purchase of the assets, with the  
14     continuance of the station, with an application submitted?  
15     I think it just shows proof that we're doing what we know  
16     best to do and have been instructed to do. And if this is  
17     an order to show cause why I shouldn't retain the license, I  
18     think goes as direct proof why we should.

19            JUDGE LUTON: Well, I think that Mr. Peterson has  
20     given us a sufficient statement of purpose. He has  
21     certainly given me a sufficient statement of purpose. Is  
22     there an objection?

23            MR. ZAUNER: Another objection?

24            JUDGE LUTON: I'm accepting -- I'm assuming that  
25     statement of purpose has satisfied your request for a

1 statement of purpose. Even if it hasn't, I'm going to  
2 assume that it has.

3 MR. ZAUNER: Yes, Your Honor. The Bureau  
4 continues to believe that this testimony of Eloy Castro is  
5 not relevant. What Mr. Peterson has done in response to  
6 information he claims he received from Mr. Wagner should be  
7 stated in his own direct testimony and, in fact, it is. He  
8 states what he was told. He states the action that he took  
9 in response to that information. There is no need in that  
10 regard for the direct testimony of Eloy Castro and Eloy  
11 Castro cannot testify as to the intent and actions of Mr.  
12 Peterson which are what is at issue in this proceeding.  
13 Only Mr. Peterson can do that and he has done so. And he  
14 has had his opportunity to do so.

15 MR. PETERSON: Your Honor?

16 JUDGE LUTON: Yes.

17 MR. PETERSON: Awhile ago, Mr. Zauner objected to  
18 my testimony that it was hearsay. This goes to prove -- his  
19 statement proves that my testimony is not hearsay, that it  
20 is in fact a fact. He is stating under penalty of perjury  
21 that what he is doing is fact and I'm repeating that in my  
22 testimony.

23 MR. ZAUNER: Your Honor, may I just point out  
24 something for example?

25 JUDGE LUTON: Okay.

1           MR. ZAUNER: In the third paragraph of Castro's  
2 testimony, he says, "Mr. Peterson called me on January 31st,  
3 1996," et cetera. And in Mr. Peterson's testimony, he said,  
4 on page 2, the last sentence beginning, "The next day I  
5 contacted the persons who had later become the principals of  
6 Vision Latina. I was familiar with Vision Latina's  
7 principals." And when he says the next day, he's talking  
8 about, I believe, January 31st.

9           So we have the information, the relevant  
10 information as to what Mr. Peterson did or didn't do in  
11 regard to the information he received from or claims he  
12 received from Mr. Wagner in Mr. Peterson's own direct  
13 testimony, again. And that's where it belongs, not in --  
14 there is no charge that this is a falsification with which  
15 needs to be buttressed by testimony offered by a third  
16 party.

17           JUDGE LUTON: Mr. Peterson, what does Mr. Castro's  
18 testimony add to your own? A little while ago you said, if  
19 I understood you correctly, that the statement confirmed  
20 some of the testimony that you've given in your statement.

21           MR. PETERSON: Yes, sir. On January the 30th, I'm  
22 looking at my AT&T phone bill. At 3:52 Washington time, I  
23 spoke for the last time to Mr. Wagner. I had made on that  
24 day from 11:50 in the morning until 2:52 in the afternoon,  
25 my time, 1, 2, 3, 4, 5, 6 telephone calls to Washington

1 totalling in excess of 30 minutes and trying to locate  
2 someone to talk to about this matter.

3 I spoke first to the Mass Media Bureau and was  
4 directed to Roy Stewart's number. From there I got no  
5 response and I went to Stuart Bider or Bideo, I think, and  
6 got no response. Then I called the attorney line and was  
7 directed finally to Mr. Wagner.

8 These are my own notes from that day and at 3:52  
9 Washington time and 2:52 Beaumont time, I found out what we  
10 had to do. I called -- started calling for Mr. Castro. The  
11 Castros own a trucking company that hauls dirt. This area  
12 down here is in some real heavy prison construction and they  
13 had a contract to deliver dirt. And it's very hard to get a  
14 hold of them. That goes to the reason I could not get a hold  
15 of them until the next day. And on the next day, I told  
16 them what we would have to do according to Mr. Wagner's  
17 instructions. That goes to my paragraph stating what I did  
18 and it goes to Mr. Castro's direct testimony supporting what  
19 I said in my testimony.

20 JUDGE LUTON: All right. That's 1, 2, 3, the  
21 third paragraph down in Mr. Castro's testimony. How about  
22 the rest of it?

23 Mr. Castro is telling us what his brothers and he  
24 did by way of beginning discussions and what they decided  
25 and then they had reached agreements later on and on and on



1 and on.

2 MR. PETERSON: That may be just, Your Honor, an  
3 explanation of procedures.

4 JUDGE LUTON: Well, whatever it is, is it relevant  
5 to this case?

6 MR. PETERSON: No, I think the details of how they  
7 arrived at things is irrelevant --

8 JUDGE LUTON: I do, too.

9 MR. PETERSON: -- to the fact that they did.

10 JUDGE LUTON: All right. Maybe something before  
11 this is irrelevant as well, but I am not able to decide that  
12 at the moment. I'm starting with 1, 2, 3, the fourth  
13 paragraph down. I think that paragraph is irrelevant. "My  
14 brother and I began discussions with the two landlords in  
15 February 1996."

16 And the next paragraph, "We decided this and  
17 ultimately retained Brown Nietert & Kaufman." That's  
18 irrelevant.

19 "By the end of March agreements had been reached."  
20 This seems to me, Mr. Peterson, in your own testimony, you  
21 indicated that agreements had been reached at about that  
22 time as well. Didn't you?

23 MR. PETERSON: Yes, sir.

24 JUDGE LUTON: Okay. This may be duplicative, but  
25 so what?

1 Yes, sir, Mr. Peterson. Go ahead. I cut you off.

2 MR. PETERSON: I was only going to say that it  
3 only establishes my time line and how we were doing things  
4 on a consistent basis.

5 JUDGE LUTON: All right. "Before these documents  
6 had been finalized, our communications called to report, the  
7 Order to Show Cause had been issued. We examined the  
8 situation. The situation looked more complicated now."

9 This is expressing nervousness about that  
10 assignment application which is pending. Okay. So this  
11 tells us how it got there, but that's not really -- well, I  
12 suppose it may have some relevance to all of this.

13 Mr. Peterson, this word here bothers me. Fifth  
14 line up from the bottom. Something about stolen. What is  
15 this? "The assignment application states stolen that Vision  
16 will commence station operations promptly."

17 MR. PETERSON: Would you read that to me again,  
18 sir?

19 JUDGE LUTON: I think that word just got dropped  
20 in there by accident. It's the last sentence. It says,  
21 "The assignment application states, S-T-O-L-E-N, that Vision  
22 will commence --

23 MR. PETERSON: That must be a typo of some sort.

24 JUDGE LUTON: That's not on your copy?

25 MR. PETERSON: No, sir, I don't have a copy.

1 JUDGE LUTON: You don't have a copy.

2 On yours, Mr. Zauner?

3 MR. PETERSON: I received a copy, but I don't have  
4 it with me.

5 JUDGE LUTON: I think I'm looking at the second  
6 page of --

7 MR. ZAUNER: Your Honor, my page 2 of Exhibit 2  
8 also has the word, "stolen" next to the word "states."

9 JUDGE LUTON: Okay. Should I care in this  
10 proceeding about whether or not an assignment application  
11 has, in fact, been filed?

12 MR. PETERSON: Are you asking me or Mr. Zauner?

13 JUDGE LUTON: Anybody. You, too, Mr. Peterson.

14 MR. PETERSON: Actually, I believe that you should  
15 because that was a direct instruction from Mr. Wagner. Once  
16 again, there were certain things I had to do --

17 JUDGE LUTON: I don't know Mr. Wagner. Never met  
18 him. Don't know anything about him and he doesn't instruct  
19 in any way that is going to affect this case, Mr. Peterson.  
20 Mr. Wagner's name has been invoked several times here by you  
21 now and I've got to let you know that Mr. Wagner is not  
22 going to determine anything that I'm going to decide.

23 MR. PETERSON: Well, I appreciate that. I'm just  
24 stating the reasons why we did what we did.

25 JUDGE LUTON: My question to you and Mr. Zauner as

1 well is what does it matter to me that the assignment  
2 application has been filed which is all this paragraph or  
3 the remainder of this document seems to talk about? Do I  
4 need to care about that in this proceeding in order to show  
5 cause why the station's license shouldn't be revoked?

6 MR. PETERSON: I don't know, Your Honor. I  
7 believe that you should simply because it's part of the  
8 procedure to retain the license and transfer a license.  
9 It's very relevant to what I intend to do with the station  
10 and once the license is conferred that I get to keep it.

11 JUDGE LUTON: Okay. Mr. Zauner?

12 MR. ZAUNER: Your Honor, I think it is irrelevant.  
13 It has nothing to do with this proceeding. We already have  
14 his testimony as to what he is going to do, on what his  
15 intentions are and that evidence is in his direct testimony  
16 where it is supposed to be.

17 JUDGE LUTON: Mr. Cinnamon, I'd like to hear from  
18 you about this if you would care to address it.

19 MR. CINNAMON: Yes, I would, Your Honor. We  
20 attempted to intervene in this proceeding, as you know,  
21 because we believe that this issue goes to whether there is  
22 a capability and intent on the licensee to expeditiously  
23 resume the broadcast operations.

24 Mr. Peterson, because of his financial conditions  
25 which is in the record, his company has determined that the

1 best way to expeditiously return this station to the air was  
2 to enter into an assignment, sales contract with respect to  
3 the station, file an assignment application and enter into a  
4 time brokerage agreement with Vision Latina as a means to  
5 expeditiously return the station to the air.

6 JUDGE LUTON: All right. Thank you, Mr. Cinnamon.

7 MR. CINNAMON: Sure.

8 JUDGE LUTON: Well, what Mr. Cinnamon makes sense  
9 to me. I'm going to deny the motion to strike any more of  
10 this. I will have stricken two paragraphs. They being the  
11 fourth and fifth paragraph on the first page.

12 MR. ZAUNER: Your Honor?

13 JUDGE LUTON: Yes, sir, Mr. Zauner, just for the  
14 record.

15 MR. ZAUNER: I was just going to ask you which  
16 paragraphs they were, but you covered that.

17 JUDGE LUTON: I'm going to take out that word  
18 "stolen" that appears in the sixth line up from the bottom.  
19 It doesn't seem to make any sense. It appears on my copy,  
20 anyway.

21 All right. Mr. Castro was not requested for  
22 examination, so presumably there are no questions to be  
23 asked of him.

24 Mr. Peterson, I'm going to now accept UHD's  
25 Exhibit 2. That is the declaration of Eloy Castro -- Direct

1     Testimony of Eloy Castro, minus those two paragraphs that I  
2     talked about that I struck. Okay?

3             MR. PETERSON: Can you tell me what two they were,  
4     sir?

5             JUDGE LUTON: Yes, sir. From the top, the fourth  
6     and fifth paragraphs.

7             MR. PETERSON: Okay.

8             JUDGE LUTON: And 2 is received. 1 and 2 are  
9     received.

10                             (The document referred to  
11                             having been marked for  
12                             identification as KUHD Exhibit  
13                             No. 2 was received in  
14                             evidence.)

15             JUDGE LUTON: Does that complete your offering,  
16     Mr. Peterson? By 1, I'm going back to your own direct  
17     testimony and 2, the testimony of Mr. Castro.

18             MR. PETERSON: Yes, sir.

19             JUDGE LUTON: That's all that I have. Any party  
20     have anything else that they want to raise at this time?  
21     I'm going to then close the record.

22             MR. PETERSON: Your Honor?

23             JUDGE LUTON: Yes, sir.

24             MR. PETERSON: Was that an opportunity for me to  
25     add something to the record?

1 JUDGE LUTON: Maybe or maybe not. It depends on  
2 what it is, Mr. Peterson. Not by way of evidence, it isn't.

3 MR. PETERSON: Okay. Then I don't have any more  
4 evidence to add.

5 JUDGE LUTON: Okay. Then go ahead.

6 MR. PETERSON: I have a point I wanted to make  
7 about the FCC's request for me, UHD, to return the station  
8 to the air, if I may?

9 JUDGE LUTON: The FCC's request to you to return  
10 the station to the air? Is that what you said?

11 MR. PETERSON: Yes, sir.

12 JUDGE LUTON: What request was that, Mr. Peterson?  
13 Where was that request made? I'm not following you.

14 MR. PETERSON: Well, it's been my understanding  
15 that if I'm to retain the license of the station, I have to  
16 bring the station back on the air at my expense.

17 JUDGE LUTON: Oh, you're talking about the various  
18 grants of temporary authority where you were told you were  
19 expected to get the station back on the air. Is that what  
20 you're talking about?

21 No. Why don't you tell me what you're talking  
22 about. I'll just sit here. Go ahead.

23 MR. PETERSON: Well, it was my understanding that  
24 the only way that the FCC would approve or agree to me  
25 keeping the license is if I could bring the station back on

1 the air as Under His Direction, the licensee and no one  
2 else.

3 Is that correct, Mr. Zauner?

4 MR. ZAUNER: Your Honor, the only way that Mr.  
5 Peterson could bring this station back to the air would be  
6 if Your Honor were to resolve this proceeding in his favor.  
7 And right now, this is a revocation proceeding. If he  
8 loses this case, he will have no license to bring a station  
9 back on the air under.e

10 JUDGE LUTON: Does that answer it for you, Mr.  
11 Peterson?

12 MR. PETERSON: Not really, because it sounds to me  
13 like -- I know we've had conversations concerning the fact  
14 that in the very preliminary hearing on the telephone, it  
15 was made very clear to me I do believe that we could  
16 maintain the license of the station if we had the ability to  
17 put it back on the air. I believe that was Mr. Zauner's  
18 direct response to one of your questions during the very  
19 preliminary hearing in June or late May that if we had the  
20 wherewithal to put the station back on the air, they would  
21 withdraw their application or whatever you call it to revoke  
22 the license.

23 JUDGE LUTON: So assuming all of that is as you  
24 say, then what? What's your question?

25 MR. PETERSON: Well, that goes to my next -- it's



1 not a question, it's a statement of fact. You know, I have  
2 been foreclosed on by two people who now own the assets and  
3 the FCC is asking me to make an agreement with someone who  
4 has already foreclosed on me to return those assets to me to  
5 put the station on the air. And I can't see where that is  
6 good business practice on the end of the two owners of now  
7 the assets to return those assets to me to put the station  
8 back on the air that could then be foreclosed on or I could  
9 lose those assets again.

10 The point I'm trying to make is it makes every bit  
11 of relevance to my argument in my direct testimony that I  
12 would like to have the Castros involved in this to take the  
13 station over. That's why we have done everything according  
14 to --

15 JUDGE LUTON: We're not getting anywhere, Mr.  
16 Peterson. I think Mr. Zauner's point is that the concern  
17 here is quite properly with the license. And if that  
18 license doesn't survive, then all of the stuff that you are  
19 talking about there is not going to matter.

20 Is that right, Mr. Zauner?

21 MR. ZAUNER: That is correct, Your Honor.

22 MR. PETERSON: Maybe I'm not making myself as  
23 clear as I possibly could because I am --

24 JUDGE LUTON: Go ahead, Mr. Peterson.

25 MR. PETERSON: I may not be making myself as clear